

FILED
US DISTRICT COURT
DISTRICT OF ALASKA

2005 DEC -2 PM 4: 50

November 28, 2005

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Lewis King Deans/Felicia King

Vs.

Anchorage School District/ Cindy Anderson-Official Capacity
Jerry Sjolander-Official capacity

AOS-0283 CV (Jks)

Dimond High School -Jim Aronow-Official Capacity-special Ed chair
Cheryl Guyette-Official Capacity-Principal
Julie Neal -Assistant Principal
Debra Wilson official capacity
Krista Shank official capacity

Sharon Shumacher-Official Capacity-Program Manager
Art Arnold Official Capacity State Special Ed.
Alaska Department of Education and Early Development
Division of Teaching and Learning Support

Civil Rights Complaint
42 U.S.C. 1983
(Non Prisoners)
28 U.S.C. 1343(a)(3)

VERIFIED MOTION OF SUMMARY JUDGEMENT

COME NOW Felicia King and Lewis Deans by and through the undersigned Prose Advocate, move this Honorable Court for entry of an Order of Summary Judgement In their favor with regard to each count of the plaintiffs complaint and statements used to support the Pre-liminary Injunction, so Lewis Deans And Felicia King can continue to exhaust administrative remedies in Due Process now or later as deemed necessary. I Motion the court To take Judicial Notice that the Stay-put Provision occurs whenever there is a Disagreement between School Districts, SEA and Parents and it is required to be in place to protect the child rights to education as soon as

A request for Due Process is made and during litigation.

I Motion the court to take Judicial Notice that Dimond High School, the Anchorage School District and SEA has failed in its duty of 300.514 after Due Process was filed on Oct 4, 2005 without providing Prior Written Notice which is considered

A Procedural Breach which would make The Exhaustion of Administrative Remedies futile.

Since Lewis king Deans Stay-Put Status is actually IDEA Eligibility reinforced by his Last IEP and Legal Agreement. An as Stated in his IEP that parent can review and change, what is felt to be more appropriate For Lewis. And given the Fact that the Anchorage School District has failed to implement Lewis IEP, or Develop an interim one, as a team with his parent. Also failed to provide services specified in his IEP,

along

With their promise to offer 10 hours of special educational services initially. Thus this being the case the Futility exception would swallow the exhaustion requirement. Because the complaint encompasses both a failure to provide services and a significant underlying failure to specify what services were to be provided.

"131 Cong. Rec.10396-01(1985)"see also H.R. Rep 99-296at 7 (1985)(exhaustion not required where "it would be futile to use the due process procedures.

Moreover the exhaustion requirement is predicated on Congress belief expressed through the statutory scheme, that administrative agencies can "get it right"

Furthermore the Stay Put Provision is a congressionally mandated provision not requiring Exhaustion of Administrative remedies to enforce! It maintains the status, before any and all disagreement occurred regardless of how

many disagreements come after the last Legal Agreement or the then current placement, before disagreement occurred. The Last Agreement Between an SEA and School District and Felicia King was an agreement of Specially Designed Instruction and Private tutoring and

A Private School at Public Expense. Which reinforced Lewis Deans IDEA eligibility as the then current placement. This is where Lewis Legal Status is stayed. Any Proposal to change his Status was challenged and disagreed to by filing Due Process in Disagreement as in Vermont. Or requesting Due Process As in Alaska who would first have to re-evaluate, in order to legally propose to change Status, by finding him ineligible after evaluation. Since Dimond High School did not evaluate him first, then claim ineligibility, before proposal to change him, the proposal is nullified, but do serve as proof that they understood he was eligible, otherwise they wouldn't have proposed a change on Prior Wrtnen notices.

Furthermore Lewis and I provided two recent evaluations one by a prior school psychologist, And an Independent Evaluation by Neuropsychologist that was just 6 months old. The IDEIA rules of July 2005 states that the child should be evaluated no more than once a year. The Evaluation was finished in February; we applied to the school in August in 2005.

However, even if they did evaluate him and find in ineligible, and propose to change him, they will still need Felicia King and Lewis Deans written Agreement to do so.

There has not been any signed Legal agreements contrary to the Last Legal Agreement of IDEA eligibility and his Individual Education Plan. Or any other Legally binding agreements regarding implementation of IDEA services to Lewis King Deans period. Lewis Stay-Put Status retains his rights to congressionally mandated 1400 IDEA. Which overall provides for the Stay Put provisions if Disagreement occurs, between SEA, School Districts and Parent. Which Lewis king Deans is entitled, as he is stayed Under IDEA Eligibility. The Then current Placement. Evidential Material Facts

This Pre-liminary Injunction is being Filed to Enforce The Stay- Put Provision UNDER 1415(e)(3) in order to enforce Lewis king Deans congressionally mandated rights, so that Exhaustion of Administrative remedies can be addressed without futility in the future, and Lewis king Deans education is not suspended any further while litigation proceeds.

MOTION FOR PRE-LIMINARY INJUNCTION

Under title 42 chapter 21 subchapter II sec.2000a6 Jurisdiction exhaustion of other remedies; assertion of rights based on other Federal or State Laws and pursuit of remedies for enforcement. Sec 2000a-1. Prohibition against Deprivation of Interference and Punishment for exercising right and privileges secured by 2000a-1

GENERAL SUMMARY JUDGEMENT ARGUMENT

1. There are no material issues of fact that need to be determined by a jury in this cause.
2. The law of the case (controlling case law and statutory authority cited herein) is such that no fact issues remain that can affect the outcome as a matter of law.
3. Though there remain disputed issues of fact, none of issues of fact s material to the outcome (i.e. jury determination of the remaining issues of fact cannot alter the conclusion of law that control the outcome regardless of how the jury might rule on the remaining issues of fact).
4. Where no issues of material fact allege by the complaint remain for the jury to decide, summary judgement is proper to conserve valuable judicial energies and to spare litigants unnecessary cost and further delays
5. Issues of facts alleged by the complaint are material facts and are material as a matter of law.
6. Plaintiffs have met their burden of demonstration the existence of genuine issue of material facts alleged by the complaint by tendering competent evidence and providing controlling case law and statutory authority to demonstrate.
7. Well established Federal Laws clearly favorable to the plaintiffs control this case.
8. Argument over non-material facts or facts outside the four corners of the complaint cannot alter an outcome regulated by controlling law.
9. Courts ruling on Summary Judgement motions are not called upon to weigh evidence, but rather to conclude only if there remain competing issues of material fact.
10. Where the law of a case as here, is so compelling controlling that material facts already established a dictate a result that cannot be altered by the jury's making any finding of immaterial fact. The court should grant summary judgment as a just and economical use of its limited judicial resources.
11. Neither politics nor popular opinion should be permitted to influence the outcome of a case dictated by statutory authority and controlling case law.
12. The material facts in this case have been sufficiently developed to enable the court to determine as a matter of law that based on statutory authority and controlling case law no issue of material fact remains to preclude entry of summary judgment

GENERAL BACKGROUND AND EVIDENCE

13. The Co Plaintiffs Lewis Deans and Felicia King Motion the court to take Judicial Notice of Lewis Deans IEP (exhibit a) and Last agreed upon settlement for the year 2000-2001-exhibit b) as evidence and material fact.
14. The Co Plaintiffs Lewis Deans and Felicia King Motion the court to take judicial notice of Appeal to Federal District Court of Objection to IDEA Ineligibility proposed by Vermont School District from Due Process Hearing (exhibit c Due Process Dismissal)(exhibit d appeal to Federal District Court.) These Documents prove Legal Disagreement. Which automatically sustains Lewis king Deans Rights under the Stay-Put Provision to Last Agreement by Sea, School and Parent of IDEA Eligibility as noted and evidenced in #13. Evidential Material Facts.

14 A

. The Co-Plaintiffs Lewis Deans and Felicia king motion the Court to take Judicial Notice of Felicia King as Lewis Deans Power of Attorney. (exhibit e) in conjunction to access the full range of available remedies in order to protect my handicapped child educational rights." 20 U. S.C. 1415(e)(4)(b) and 20 U.S.C.1415(e)(4)(E).

14 B

Lewis king Deans has Aspergers Syndrome, and Other Health Impairments, and is considered disabled by Social Security. And does not pose a Danger. He has no criminal Record has never been suspended from High School and has never had a Manifestation Determination. Still Anchorage School District is pushing to permanently unilaterally displace him during pendency and Review Proceedings

14C

Anchorage School District required Lewis king Deans to abolish his IDEA Eligibility and 10 hours of special Education needs and services they first offered for educational benefit, If he wanted to attend his neighborhood high School. They mandated that he accepted a unilateral displacement if he wanted education. So Lewis could not attend school under this circumstance because he has Health Impairments and is easily stressed and Subject to sensory overload. Furthermore this would cause re-injury to his neurological pathways. Also he is breathing machine in the home to help him maintain circulatory health. Henceforth Lewis is enrolled, but has not attended. And they are putting grades on his records, which are attached to their dictated unilateral displacement lead by Anchorage School District.. Sequential written record-. Dimond High School officials offered 10 hours of Special Ed services August 24, 2005(exhibit e) On August 31, Lewis wrote saying he found his Neurosych and did not want anymore evaluations just his IEP updated. (Exhibit F) They then made a proposal to change him Sept 2, 2005, after we refused permission, for evaluation in the letter dated August 31, which the letter is acknowledged in the proposal by Krista Shank the counselor (exhibit G) After this we immediately revoked all signatures for evaluation or any proposal for an interim 504 dated Sept. 2, 2005, the same day they proposed it. We mailed 4 responses that day Certified return receipt. The revoking of 504 interim (Exhibit H) Lewis August 31, letter now notarized (exhibit I) Felicia King wrote letter saying the 504 they was proposing was the Subject of a Lawsuit and in Disagreement in Civil Court it was also notarized (exhibit J) Lewis notarized statement for me to control his educational interests. (exhibit K). All Notarized sent return receipt. Dated Sept. 2, 2005

We were waiting Until his IEP was updated and implemented and the 10 hours of special Ed services specified. Which Dimond high School officials offered August 24, 2005, but failed to implement . Then Anchorage School District directed them to not do, in Letter evidenced by Cindy Anderson without Proper Prior written notices or any substantiated explanation, this letter was Dated Sept 12, 2005, more then a week after school started! (Exhibit L). This letter confirmed they illegally unilaterally displaced him, And decided to put him under a 504 that had expired 5/18/05 confirmed in Notice of propose Action (exhibit M) by Krista. As if the 504 expired or up to date, exerted an extreme amount of Leverage over the Stay-Put provision or IEP they had knowledge of in the August and in the Sept 2, 2005 letter in which Felicia King cited the Stay Put Provision. And Disagreement in Civil Court to change Status.

14D

Lewis is receiving services from Sylvan Learning Center who covered all aspects of academic testing, and found Lewis needs a great deal of remedial tutoring to assist him in Standard Content Credit and Prepare him for Post secondary education. They said they could assist him in obtaining Legitimate High School credits along with Post Secondary Preparation. Lewis likes Sylvan, he received their services provided by his last agreement that was paid with public funding. Now we are paying out of Pocket for Lewis to have some access to education, so he is not totally left to rot. We did alert the District first, that Since they refused to provide Free and Appropriate Education as required under 1414(a)(5) 1401(18) 1401(16) 1401(17)(Due Process Exhibit M), we would be seeking reimbursement for private Education with Public funding and Alternative schooling for Lewis, who now feels that the school would be an hostile environment, since they are now it seems moving to abolish his rights to benefit from education. Continuum of Alternative Placements as required by the code of Federal Regulations (At 1172, 1175

15. FEDERAL LAWS-the Co Plaintiffs Lewis Deans and Felicia King Motion the court to take judicial notice of the STAY PUT PROVISION OF THE INDIVIDUAL WITH DISABILITIES ACT, U.S.C. sec 1415 (e)(3)(a) CONGRESS PASSED (IDEA) During the pendency of any proceeding conducted pursuant to 20 U.S.C. sec 1415(e)(3)(a) unless the State and local agency and the parents or guardian other-wise agree, the child shall stay in the then current Education placement of such child. The purpose is the parents choice of keeping the child in his existing program, placement.(as evidence and material fact)
 16. FEDERAL LAWS AND CASELAW- THE CO-PLAINTIFFS Lewis Deans and Felicia King Motion the court to take judicial notice of their request to grant an injunction pursuant to enforcement of the stay-put provisions of the Individual with Disabilities Education Act 20 U.S.C. 1415(e)(3)(a). As material facts of preceding caselaw The United States Supreme Court 510 U. S 7 No. 91-1523 Sandra Day Oconner Associate Justice Breach of Duty 1401 (a)(18) Hendrick Hudson central school district. rowley, 458 U.S. 176,201 (1982) In School comm. Of Burlington v. Dept of Ed of Mass, 471 U.S. 359,369 (1985) Held that IDEA'S grant of equitable authority empowers a court "to order school authorities to reimburse parents for the expenditures on private special education for a child if the court ultimately determines that such placement rather than a propose IEP is proper under the Act.
 17. The Co Plaintiffs Motion the Court to take Judicial Notice The Anchorage School District proposal of Ineligibility of IDEA is inappropriate, Development Delays, Social and emotional, cognitive and communication. Who by reason thereof need special education Perceptual processing disorders a public Law 94-142 Minimal Brain Dysfunction or ADD Material Fact. Support by Neuropsych. Completed February 2005 and IEP and Last agreement and Diagnosis of Aspergers syndrome and Non- Verbal Learning Disabilities, and Other Health Impairments
 18. Ineligibility proposal is inappropriate since it does not support Federal Law or Mandates of the Stay-Put Provision, and there is no proof or evaluation of Ineligibility, in order to propose ineligibility.
 19. Ineligibility proposal is inappropriate, because there is no Legal agreement, contrary to the Last Legal Agreement of Eligibility!
 - 20.
- And now Lewis is requesting continuance of Services through Sylvan Learning center and Private Education with Public funding since he received them in the past as part of his specialized designed Instruction and has Started receiving them again in Alaska, and is entitled to reimbursement, since those named in this injunction refused Lewis Fape in a timely manner and comparable benefits of equal access and standards to High School and Post Secondary Preparation, by letting Personal Prejudices and irresponsible actions an inaction ignore Federal Mandates Lewis had Protections under . Material Fact
21. Any of Lewis High School Credits that are not based on the Last Legal Agreement of IDEA Eligibility are in fact slanderous and illegal, because there is no written signed legal agreement contrary to the Last Agreement of Eligibility. So if grades were not in accordance with specialized designed instruction, IEP, they are in fact false and invalid. Because it is not free and Appropriate Education as Required by IDEA Law-20 U. S. C. 1414(d)(1)(A) Material Fact.
 22. Lewis was denied Legal Transition during illegal unilateral displacement, since it should have been written in an Updated IEP and implemented. IDEA Law Material Fact
 23. Sec 300.347(b) or Sec. 300.344 Legal Transition Required by Federal Law by 16 years of age
 24. Lewis king Deans is entitled to an additional extension of IDEA eligibility, until age 26 and above because he did not have a Legal Transition and he is on the Autism spectrum which is based on Federal Law and not State Laws. Material Fact.
 25. Lewis Deans pragmatic and social skills are a part of Specially Designed Instruction and must be updated for his age now in accordance with his IEP and Transition Services required by Federal Law. Material Fact.
 26. IDEA is Federally funded and States Sign Contracts to provide services to Disabled Children in their State for State eligibility. 300.110 through 300.244 Federal Law Material Fact
 27. State educational agencies are responsible for enforcing Federal IDEA Laws and insuring eligible children are provided Services. 300.141 Federal Law Material Fact
 28. Lewis King Deans was acknowledge as a resident of Alaska August 1, 2005(exhibit N), Evidential Material Fact.

29. Lewis King Deans is IDEA Eligible, because there is not a Legal agreement to the contrary with parents signature or Lewis signature agreeing to ineligibility IDEA Law 300.345
30. Lewis King Deans, has a right to resume his education based on his IEP and Eligibility and Last Legal Agreement IDEA Law 300.514 Even after filing Due Process in Vermont to challenge unilateral displacement under 504 by disagreement, which then fell to the Stay Put provision with the last legal agreement of Eligibility and 1400 IDEA, as the then current status- before disagreement, following evaluation stating ineligibility, consequentially writing disagreement letter and filing of Due Process by Felicia King and Lewis Deans, then further
Appealing to Federal District Court in Vermont in April of 2005, sequentially moving to Alaska in July 2005 before any court Decisions. Then Filing for Due Process Oct 4, 2005 for Continuum of Services, and private education with public funding based on his Last Legal Agreement and Specialized Designed Instruction Because Dimond High School and Anchorage School District failed to provide Fape in a timely manner while seeking unnecessary evaluations and wavering from Idea Eligibility to Proposal for expired 504 to change Status, then illegally and aggressively overriding the Stay-put provision to unilaterally Displace Lewis Deans illegally and deprive him of his f IDEA eligibility. In exchange to attend Dimond High School
Which can only be changed with signed legal agreement with evaluation of ineligibility.
Neither The Burlington Vermont School District or The Anchorage Alaska School District has met the requirements or burden of proof to decertify Lewis to ineligibility, yet both illegally rushed to imprison Lewis and Restrict Lewis from his IDEA entitlement without evidential substantiation.
LEWIS KING DEANS SHOULD NOT BE LEFT BEHIND; PUNISHED OR DEPRIVED OF HIS RIGHTS TO BENEFIT FROM EDUCATION, BECAUSE HE MOVED TO ANOTHER STATE. AND BECAUSE OF SCHOOL OFFICIALS PREJUDICIAL HABITS OF DEPRIVATION OF POOR DEFENSELESS MINORITIES AND BULLYING AWAY RIGHTS TO BENEFIT FROM EDUCATION. THIS IS AN ILLEGAL USURPATION OF CONGRESSIONAL MANDATES AND SPECIAL EDUCATION LAWS WHOSE GENESIS WAS FORMED SO MINORITIES, POOR AND DISADVANTAGED COULD ACCESS EDUCATION THAT COULD OFFER THEM BENEFIT.
300.345 Parent Must Participate or child who is an adult.
300.300 Provision of Fape
Federal Law and Evidential Material Facts
31. With proper transition services Lewis Idea eligibility in the State of Alaska is until 22 years of age, which means Lewis has at minimum 3 more years to his entitlement. material fact
32. A 504 Does not negate IDEA Eligibility- Material Fact
33. An IEP that has not been updated is still proof of IDEA eligibility. Material fact
34. IDEA does not deny eligibility based on an outdated IEP or a 504. Material fact
35. A child new to the State of Alaska with an IEP should have the IEP Implemented until another one is developed or until the child is found ineligible with parent agreement or age out to 22 years of age. Material Fact
36. There is a class Action Lawsuit pending, claiming inequity of funding in Minority and Poorer Districts. Material Fact
37. Minorities in the State of Alaska have history of educational deprivation, such as the Native Population Material fact.
38. Lewis is Eligible for supplementary tutoring services under NCLB and IDEA- material fact
39. Lewis is protected under the Handicapped Children's act. Material fact
40. Many student services are provided by Sylvan Learning Center and paid by the SEA and District Material Fact
41. Sylvan is a supplementary service provider. As well as offering High School classes and credit. Evidential Material fact.
42. Dimond school officials and Anchorage School District proposed to place Lewis under the 504 Vermont previously had him under to deny his IDEA eligibility Evidential Material fact.
43. Dimond High School Received a Return receipt letter stating 504 was in Federal District court dated Sept 2, 2005 From Felicia King and Lewis Deans-Evidential material fact.

44.

Jim Aaronow as a Chair in the Dept of Special Ed Services and Dimond High signed his name on Prior written notice Sept 2, 2005 proposing to change Lewis king Deans IDEA eligibility status to an expired 504 Evidential material fact Exhibit (o)

45. A Neuropsychologist has more clinical training then a school psychologist. Material fact

46. The School psychologist Debra Wilson signed her name on Prior written notice proposing to change Lewis king Deans IDEA eligibility status to an expired 504. Material fact (Exhibit o)

47. Krista Shank school and guidance counselor signed her name on a prior written notice proposing to change Lewis king Deans IDEA eligibility status to an expired 504 while admitting history of Special education services in the past. Evidential Material fact exhibit(o)

48. Cindy Anderson wrote a letter dated Sept 12, 2005 that Lewis Deans had been decertified by Vermont and she could not direct her staff to put Lewis under special Ed Services, and that she put him under a 504 only, Ms. Anderson took this action without giving a Prior Written Notice, and without agreement from Lewis Deans and Felicia King, and without consideration of the Independent Evaluation and IEP and Last Legal Agreement of Eligibility and the Stay-Put Provision, also without proof of any written legal agreement to the contrary of Lewis Deans IDEA eligibility. A 504 that had expired and that was in Disagreement in court as disclosed to her in Sept 2, 2005 letter. Material fact.

49. Also she negated the fact that Dimond School Officials had already acknowledge Lewis Deans IDEA eligibility and offered 10 hours of Special Ed Services, but begin proposing the 504 only after Lewis Deans and Felicia King Legally refused evaluation because IDEIA of 2005 states 1 Evaluation Per year which Lewis already had. So they then proposed an expired 504 stating until evaluation results are completed. Lewis Deans and Felicia King immediately mailed and certified Disagreement to any evaluations , proposed changes.300.345. Parent Participation This revoked any rights to evaluation or proposed changes. Cindy Anderson was required to give Prior Written Notices to reason why she was overriding our disagreement with the proposed change, before she made any change, covering (a)(1)(I)(ii)(2)(a)(1)sec 300.505(b) Content of Notice (1)(2)(3)(4)(5)(6)(7)(c)Notice in understandable Language(ii)(iii) IDEA LAW MATERIAL FACT

The Anchorage School, District and Dimond High School Officials allowed false grades, to put on his record because he refused them segregating him from his IDEA eligibility in order to attend His neighborhood School. 300.503 IDEA law Prior Written Notice. Evidential Material Fact,

50. Cindy Anderson is The Secondary School Special Ed person for the Anchorage School District sec 300.323 Authority 20 U.S.C. 1221e-3 Qualified Personnel. However her action appears as if she have no concept of IDEA regulation or Law. Especially that congress mandates that if there is a Disagreement between, School District, Parent or State Educational Agency. The Last Legal undisputed Agreement is to be used, so the child is not deprived of education or services. It was made clear to all Dimond High School Staff that the 504 that the school was proposing was in disagreement in Federal District Court and was part of a Civil suit. Cindy acknowledged seeing this letter of Sept 2, citing Lewis was under the Congressionally mandated Stay-Put Provision 300.514 which maintained his eligibility, yet her Sept 12 responding letter proceeded in directing her staff to put Lewis under the expired 504 that is in Disagreement in Civil Court. Instead of the Last Legal Agreement of IDEA eligibility. Also Cindy Anderson Acknowledge that she Knew Lewis Deans had IDEA Eligibility. Because she stated that Vermont decertified him in May 2004. As if decertification only required saying he was ineligible, without proof of written Legal Agreement by all Parties including Lewis Deans and Felicia King as needed by law to change a child IDEA eligibility status. Or without any proof legal or otherwise of ineligibilty.300.345 Evidential Material fact.

51. A school or District can not just decertify a Student unless the child is evaluated and found ineligible and had no previous IEP or History of Special Education Services, and the Parent agrees to the ineligible Status-by written agreement- Legal and Material Fact

52. Lewis king Deans rescinded signature Sept 2; 2005 within 10 days any proposal to change his status and any permission further evaluations of any kind on notarized returned receipt along with Felicia King signature- Material fact.
53. Lewis Deans although enrolled have never attended Dimond High School, based on the fact that a child with an IEP should have an IEP in place before the IDEA child starts school. Lewis has an IEP, however Dimond High School and Anchorage School District, only offered a Lewis an expired 504 that was fax to them by Vermont. As if 504 terminates Lewis rights to access to education under his IEP or Specially Designed Instruction. When Lewis is eligible for both IDEA and 504 and NCLB and FEOG and HCA, and none of these Statues limits IDEA Eligibilty, but should be used in conjunction and coordination of services.- Material facts and IDEA LAW
54. Lewis Deans has never had a manifestation Determination or has never been suspended from High School. and Have a history as a child of Special education Services, and received special education services under IDEA Eligibility in his first year of High School - Material fact
55. Lewis king Deans has no criminal record material fact
56. Lewis king Deans is has not had his IEP updated even though it was requested several times to school officials at Dimond High School, Anchorage School District and the State Ed Dept. Material fact
57. Lewis has not been evaluated in Alaska but is still eligible under IDEA, because he has a history of special education services and no written agreement to the contrary. material fact
58. The New IDEIA Law of July 2005 states that a child should only have one evaluation per year.
59. And Lewis came with a recent evaluation Material fact
- 60.
61. Dimond School psychologist and staff insisted on wanting to evaluate Lewis, eventhough they had two evaluations one Finished in February of 2005. While simultaneously refusing to update his IEP Material fact
62. Unilaterally Displacements do not change IDEA Federal Law and mandates, neither does ignoring them. Material fact
63. A child coming into the State with an IEP, should have the IEP implemented, before any evaluation, or attendance of school IDEA LAW material fact
64. A child who has had an IEP previously, that was then put under a 504 before an evaluation, and without written agreement from parents is considered unilaterally displaced. However displacement means out of proper place, not out of IEP or IDEA Eligibility. Material fact
65. IDEA Automatically Trumps 504, A 504 unilateral displacement or a 504 period. However a 504 can never Trump IDEA automatically. Material fact
66. Students who were identified as a child to be eligible for IDEA and Put under an IEP, still is eligible whether they had an updated IEP in the last educational setting 300.122 (B) under sec. 300.7 materialfact.
- 67.
68. Asperger's syndrome fall under a child with a Disability under Sec 300.7 child with disability C (1) material fact Other Health Impairment C 9 Lewis has been diagnosed under both. Material fact
69. A delay in Education services, is denial of education services. With no comparable benefits. And can be bought under 14th amendment rights violations, 1973 Rehabilitation Act for Discrimination. ADA Title II, violation Handicapped children's Act. Material fact
70. Dimond High school staff was given Lewis Independent Neuropsychologist report citing Specially Designed Instruction needs. Material fact

71. Bullies would rather pick on the Poor and Disabled children and blame them for educational losses they had no control over, rather than hold accountable and address those who are really responsible.
Material fact
72. Dimond High School and Staff and Anchorage School District and SEA officials slow and inconsistent actions represent habits of disregard for minorities and poor without resources who have been marginalized in Education like Lewis king Deans Material fact
73. Lewis enrolled in Dimond High School Aug 24, 2005, and signed up later for special education classes. But changed them later. Material Fact.
74. IDEA Students Graduation from High School requires Prior Written notice in accordance with 300.503 material fact
75. Dimond High School refused to update Lewis IEP, after signing him up for 10 hours of special education services after Lewis Deans and Felicia King refused evaluation. Even though 300.505 states that a Public Agency may not use a Parent refusal to consent to one service or activity to deny the child other services benefit or activity of public agency AUTHORITY 20 U.S.C. 1415 (B)(3) 1414(A)(!)(c) and (c) (3) Material fact
76. Equal Access to Education is more than being able or permitting one to come in a building and integrate with non-disabled students with greater economic and academic advantage of diverse cultures. Material fact
77. IDEA eligibility was meant to give the Disabled child equal access to education, by the way of services, assistive Technology and community integration based on the child special needs that will help them develop and receive comparison benefits from education like non-disabled students. It is a necessity, for life preparation. Officials and those in Authority who provide such services, only see it as a luxury item when it is used to great excess on some, while simultaneously denying others completely. Cultural Material Fact.
78. When Laws are overlooked, that are obvious that special educators and coordinators are made aware of, we can admit there is personal prejudices involved, along with deliberate violations of laws.
Material fact
79. Deciding when to ignore laws and when to enforce law is a matter of personal prejudices. Material fact
80. The Governor approved of a multi-million dollar Budget to offset educational funding shortages in Alaska 2005 material fact.
81. Schools and Districts pay Lawyers large amounts of money to deprive children who are in need of services, rather than servicing the need of the Disable child with some of the money, even when the child has history of special needs services as in Lewis king Deans case Material fact
82. When most people look at the Landmark case of Brown vs. Board of Education and think it is about just ending segregation and forcing integration. They fail to see meat of the case which is that people left to their own whims in public places of education fully Federally funded or partially Federal or public funded., when given the opportunity will naturally Discriminate. So Laws must be in place that could enforce equal access to education. And the fact that discrimination occurs with the laws and in violation of the laws. Proves that people will naturally Discriminate material fact
83. Discrimination is considered a violation of the 1973 504 Rehabilitation Act and a Violation of Civil and Constitutional Rights Material fact
84. Constitutional Law is Supreme Laws Material Facts

Lewis king Deans rights to services Under IDEA, 504, Feog, NCLB is a Constitutional Right and if denied these rights by any Public Entity, State, or Person. It can be said that is a violation of Lewis Constitutional Rights and Entitlements under Such Rights. Material Fact

84B

Children who are new immigrants to this country are entitled to ESL classes to help them overcome the language barrier and give them a chance for equal access to education. This is considered Specialize services, but not a luxury but necessity. And it is a must if they are to receive any benefit from Education. Many come from Germany, Russia, China, Japan, Israel, Mexico, and Puerto Rico. And receive these

services, to help them succeed in America and become full participants of this society. However Lewis traveled across a couple States within the United States and school personnel in other states rushed to remove him from equal access and already established IDEA eligibility services, that would help him succeed in America through equal access. Henceforth other people could come on a plane for 18 hours or more from a foreign lands and be entitled to educational benefit But Lewis moving to another State in this country of his birth, overwhelms school officials to the point, they would rather Abort his rights to any benefits from education. So he can't travel to another state, without School officials like the Anchorage School District and those named in this injunction aggressively pushing to remove him from his Education entitlement as if in punishing him from traveling state to state. When others are rewarded benefits of education from traveling from their Country of birth to this country.

.Furthermore those named in this Injunction aggressively pushed to remove, and seize Lewis from free and appropriate education, and abort Lewis right to benefit from education, and punish him for traveling to other states in this Country, his Country of birth, which his father fought in war, and his grandfather fought in wars and his uncles fought in wars and his great grandfather fought in wars and his great uncles fought in wars, and his older male first cousin fought in wars in the defense of freedom for Lewis to move without Tyranny or Search or Seizure, especially if there is No probable cause for him not to have such freedoms...

Material Fact.

84C

When School officials in one State choose to follow the violations and illegal practices laid down by school officials in another State, thrushed upon a disabled student such as Lewis Deans, instead of following the Laws and Mandates they signed a contract agreeing to follow, it can be said they are in Breach of Contract and they should be held as fully accountable as the State school officials who violations and illegal practices they chose to show allegiance to. In negation of their agreement and contract of allegiance to Federal Laws and Mandates. Material fact

84D

Federal Funding is attached with Federal Obligations of Eligibility for States to conform to, and it Can be said that Federal Funding is Money that belong to all Americans, and when state and school officials have indifference to the Federal Laws that follow that money, that they also have indifference to all Americans. And this could be the reason that with billions of dollars going to education, we produce fewer engineers and Doctors then other industrialized countries, and non-inudustrialized countries. Henceforth indifference to Lewis king Deans Federally funded rights, is an indifference to all Americans, and Congress and Laws. Material fact

84E

84 The Stay Put provision of IDEA 1400 congressionally mandated Law, keeps the child in the educational status or placement that was Last agreed to, by Parent and School and SEA. IDEA 1415(e)(3)

85.

Although Lewis Deans and Felicia King filed for Due Process , they could not go forward with the pre-hearing because of the Procedural Breach of the Stay-Put Provisions, which happen to be Lewis Last agreement which is IDEA eligibiliity. Henceforth The Dimond High School and Anchorage School

District was in Disagreement with itself as to the identification and placement of Lewis. This is why they wavered From 10 hours of special Ed services, to then a nullified proposal of an expired 504, then to unilateral displacement. Henceforth this internal disagreement then led to Felicia King and Lewis Deans also Disagreeing, and requesting Due process which in turn kept Lewis under his Last Agreement and Stay -Put Provision of eligibility , Then when Felicia King and Lewis Deans filed for Due Process, Oct 4, 2005, 1415 (e) (3) should have alerted all officials that Lewis was already Stayed under eligibility , and will continue to be Stayed as Long as Disagreement Exist to the contrary. In which the District disagreed with itself and then Felicia King and Lewis Deans Disagreed with the District, Disagreeing with itself, Material Fact

86

Instead of acknowledging Lewis king Deans Stay-put status Procedurally and alerting all parties, which is the responsibility of the Anchorage School District, and the State Educational Agency. They spent energies trying to rush Felicia King and Lewis Deans in a Pre-hearing while made aware of Legal counsel being hard to find, and while allowing the School officials to ignore the Stay-Put Provision, Which could lead to a pre-hearing conference then a hearing in futility. Because the Stay Put Provision comes before any hearing. This is a serious Procedural Breach, requiring procedural safeguards and Prior Written Notices. From State School Officials. Material Fact

87

A child with an IEP should have his IEP implemented, or an interim IEP when he is coming to a New School District. Dimond High School and Anchorage School District negated this procedure, thus Violated, and caused a procedure breach which in turn deprived Lewis of Starting School on time. They ignored this procedure, and attempted to evaluate before implementing the information and identification that was in front of them, which they acknowledged as early as August 24, 2005 and Then Cindy Anderson still insisted on an evaluation in her letter dated Sept 12, 2005, when she claimed without proof Lewis was decertified. Which is an implication or an underhanded assertion, of her Trying to imply he wasn't IDEA eligible. Material Fact.

88

Felicia King Sent Cindy Anderson a return receipt letter, which addressed her Sept 12, 2005. This Letter was dated Sept 20, 2005 CRR-certified Returned Receipt. This letter reiterated that Lewis Deans was already IDEA Eligible, and that his IEP should be implemented or an interim one updated, and any academic assessments needed should be stated in the interim IEP. It also stated his recent Independent Neuropsych and other school Psychologist report were done within the year and both Identified a Need for IDEA Services or specially Designed Instruction. And summarized his Special Education History. The School Psychology report actually said Lewis should be under IDEA or 504, however he was already eligible under both. The Neuropsych. Spell out specially Designed Instruction needs. In the Sept 20, 2005 was proof of Stay -Put of Lewis IDEA eligibility by the way of Due Process Dismissal, and appeal to Federal District Court and Letter that the case was still active in Federal District Court from school Attorney, date 8-30-05. And A letter from Felicia King sent to the court clerk. Also I requested if another evaluation is pushed, I would like it done by a Neuropsychologist in an independent evaluation, because if the School Psychologist Debra Wilson at Dimond High didn't understand Lewis may not be capable of signing agreements without supports, she may not be aware of the ramifications or nexus of his disability. So then Lewis will have 4 evaluations done in the span of not even a year and a half. There was no response to this Letter only phone calls from a machine from Dimond high Stating he was absent each day he didn't go, which he did not go at all, and Sept.2,2005 was his last Visit to the school.

(Exhibit P)

89. Sept 23, 2005 I sent a complaint letter CRR to Art Arnold at the Alaska Dept of Education and explained Lewis and his ordeal with Dimond High School and Anchorage School District I listed everything in sequence as it occurred, and requested that they explain IDEA laws and regulations to the school and District. In the first 2 lines I stated it was a complaint, and how I wanted it to be a concern, but my son was sitting at home and I felt I should file a formal complaint, just in case of future litigation. One thing I found interesting in the complaint I stated the fact that my son Independent Neuropsych kept getting lost or overlooked evidential Material Facts (exhibit SL1)

90. I wrote Another Complaint CRR to Art Arnold Dated Sept 25, 2005 and stated that the School District is overlooking the IEP, Last Agreement, IDEA Stay put Provision, Independent Evaluation done 7 months ago, and their own agreement to provide special Ed instruction before dispute over evaluation occurred. I stated the School District is overlooking all of this to latch on to a 504 that is in dispute in federal court. As if this is the saving grace to deny Lewis Deans his entitlement. However they can not produce any agreement with this 504, but I can produce stamped Federal court documentation of disagreement and objection. Also I reiterated that IDEA Law provided a clean slate of last agreement to protect the idea child. And it is sad that people prefer to climb into the mud, unnecessarily. However they better be aware of the snakes they congregate with evidential Material fact exhibit (SL2)

91

I did not hear from the State Educational Agency until Oct. 3, 2005, by phone in which they talked of mediation, in flying in someone from Montana in about 10 days.

92

I responded The SEA Oct 4, 2005 by CRR letter stating the unfairness to Lewis who had missed more than a month of school and how very, very unfair that he was being picked on for no reason, and why is he not allowed to start school like other students in conjunction with his IEP. And that eventhough he IEP hasn't been updated it was more beneficial to Lewis then all the unnecessary Dilly Dolly. His 5 year old IEP should be implement starting at the beginning of school because the laws are clear to use it or develop an interim until another one is developed,. Also that there was nothing substantive keeping Lewis from his educational plan that is legal. And this was a violation of the Stay-Put provision. And I listed the violations And told them I didn't want any mediation, what are we suppose to mediate Federal Laws? And they

should just implement the IEP
Material facts. (exhibit SL3)

93

I wrote a letter CRR to the State and All the School officials OCT 4, 2005 CCR filing a complaint for Due Process citing Failure to provide Fape in a ^{timely} manner. And how it was the causation of emotional insecurity and social injury I requested a Continuance of Services as Lewis now see school as Hostile environment. And that we wanted Private contractors, and Legal service Providers. I requested placement at public expense., However I gave the District 5 days before due Process hearing to provide free and appropriate education concerning , content, standards and services in accordance with Alaska Standards.

And IDEA Eligibility (exhibit M) Material Fact.

94

Since Anchorage School District and Alaska State Dept. Did not follow, procedures regarding the Stay-put provision, Felicia King and Lewis Deans now can not wait any longer for them to offer Free and Appropriate Education. Because of the procedural Breach a Due process may be futile in achieving Lewis Deans right to Free and appropriate education, if they won't follow the Stay -put Provision it would be working backwards to move forward with a pre-hearing, then hearing, meanwhile Lewis needs full and equal access to education and Tutoring and Sylvan can provide many of the High School credits and tutoring, however Lewis still need socialization, and peer skills, so we will be looking for a school also that

offers life skills and social and community integration and we want Public Funding to pay for a school or program of our choice that subcontracts with the SEA and Anchorage School District. Material Facts

95.

Although many disabled children so-called drop out, the actions of these school officials confirm that many are forced out by indifference and blatant inequality of services and massive, overwhelming resources like Lawyers and money to wage war against the child. A youth or child that is defenseless against a barrage of intimidation, red tape, and prejudices, runs muck. To know the character of a country of State, look at how they treat their children. Disabled Youth are a very vulnerable Population, yet the Artillery some of these Districts waste pushing the Deprivation of Services and Education could be used for the education of that youth Material fact.

96.

A youth 21 or under that was identified as IDEA eligible as a child who goes to prison, is still IDEA eligible in Prison and if he gets out and seeks services. And he is allowed Services in conjunction with his IEP or specially Designed Instruction. Material fact

97.

Lewis king Deans was subjected to false imprisonment he was severely restricted and imprisoned away from his IDEA eligibility and suffered emotionally and physically and socially and developmentally. And because Lewis stayed the course while this false imprisonment was taking place by school officials in Vermont and Alaska. Does this disqualify him to Free and Appropriate Education. Does this mean he has to bear the burden of school officials who falsified his record to support their false imprisonment. and educational malpractice. Where in the Law does it say a disabled Youth should be punished 4 times for the crimes against him by bearing the burden of the false imprisonment, then the burden of a falsified record to support the false imprisonment of him in two states. And two times two is 4. Material fact

98

If a youth gets out of prison and seeks services in conjunction with his IEP or "Specially Designed Instruction, and he is allowed these services to help him integrate back into society, why would Lewis king Deans after challenging and removing himself from false imprisonment, have to be subject to false imprisonment again and not be allowed to seek services in conjunction with his IEP or specially designed instruction. Then be forced to carry the Burden of the false imprisonment and educational malpractice on his school records. Because many youth records are esponded when they committed crimes when they were young. Lewis never committed a crime, but unscrupulous school officials want him to have a record bearing the burden and protecting those that committed educational malpractice against him. To relieve themselves at his expense Material fact.

99.

So I restate any grades on Lewis records that can't be proven to be in alignment with his last legal agreement of IDEA eligibility and in conjunction with his IEP are Invalid, and is not Free and Appropriate education. If they are from any unilateral 504 they, are evidence of educational malpractice only. Material fact.

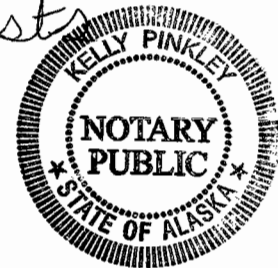
100

Plaintiffs Felicia King and Lewis Deans have met the Burden of Material facts and evidence and we pray that the Honorable Judge in the Alaska Federal District that justice is allowed to prevail and Lewis King Deans is Granted summary Judgement out of this false imprisonment of him. So that he can continue his education and become a functioning member of society with all the liberties and responsibilities that is part of functioning in society including dealing with bureaucratic misfits.

I Lewis Deans (LEWIS DEANS) PURSUANT TO 20 U.S.C.1415(M)(2) HEREBY APPOINT MY PARENT, FELICIA KING POWER OF ATTORNEY OVER MY EDUCATIONAL INTERESTS SHE IS ALSO GIVEN POWER OF ATTORNEY OVER ALL MY AFFAIRS IN GENERAL. AS OF THIS DAY November 19, 2005 THIS POWER OF ATONRY IS GOOD UNTILL I, LEWIS DEANS REACH THE AGE OF 26 AND/OR UNTILL COMPLETION OF A GRADUATE DEGREE

I Lewis Deans pursuant to
20 U.S.C 1415 (M)(2) Hereby appoint
my parent Felicia King power of ATTorney
over my educational interests

x Lewis Deans



3rd Judicial District)
) ss.
State of Alaska)

On this day personally appeared before me Kelly Pinkley, to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledge that Lewis Z. Deans signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this 2nd day of December, 2005

Kelly Pinkley
(Signature of Notary)

Kelly Pinkley
(Printed Name of Notary)

SENT TO ATTORNEY FOR THE DEFENDANTS ALONG WITH FILING OF VERIFIED MOTION OF SUMMARY JUDGEMENT WITH FELICI KING SWORN VERIFICATION.

December 2, 2005

VERIFICATIONS

STATE OF ALASKA
COUNTY OF ANCHORAGE

BEFORE ME personally appeared Felicia King who, being by me first duly sworn and identified in accordance with Alaska law depose and says:

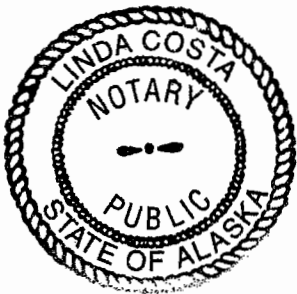
1. My name is Felicia King one of the plaintiffs herein
2. I have carefully read the foregoing complaint, and each of the facts alleged therein is true and correct of my own personal knowledge.

FURTHER THE AFFIANT SAYETH NAUGHT

Felicia King

FELICIA KING

SWORN TO AND SUBSCRIBED IN MY PRESENCE



Linda Costa

____ NOTARY PUBLIC State of Alaska

my commission expires 4-10-09

SENT TO DEFENDANTS AND ATTORNEY LONG WITH FILING OF VERIFIED MOTION OF
SUMMARY JUDGEMENT WITH FELICIA KING SWORN VERIFICATION

December 2, 2005

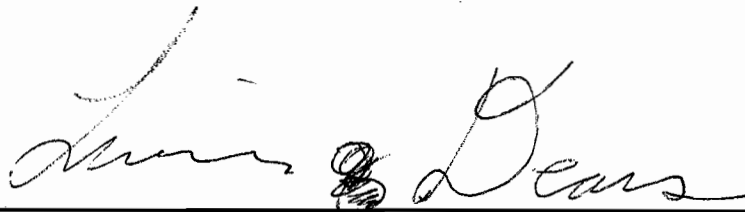
VERIFICATIIONS

STATE OF ALASKA
COUNTY OF ANCHORAGE

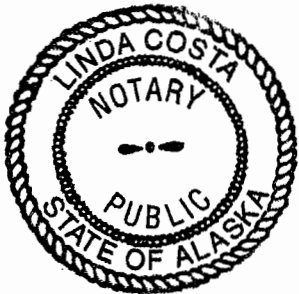
BEFORE ME PERSONALLY APPEARED Lewis Deans who, being by me first duly sworn and
identified in accordance with Alaska Law deposed and says:

1. My name is Lewis King Deans one of the plaintiffs herein 2. I have carefully read the foregoing
complaint, and each of the facts alleged therein is true and correct of my own personal knowledge.

FURTHER THE AFFIANT SAYETH NAUGHT



LEWIS DEANS



SWORN TO AND SUBSCRIBED IN MY PRESENCE



NOTARY PUBLIC State of Alaska

my commission expires 4-10-09